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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF760

Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for exempted fishing permit.

SUMMARY: This notice announces the receipt of an application and the public comment period for an exempted fishing permit (EFP) from Mr. John Gauvin of Gauvin and Associates, LLC. If granted, this permit would allow the applicant to continue the development and testing of a salmon excluder device for the Bering Sea pollock trawl fishery. The objective of the EFP application is to identify upgraded excluder design(s) and specific rigging configurations most likely to produce the greatest relative reduction in Chinook salmon bycatch rates on vessels from different horsepower and size classes of the Bering Sea pollock fishery. The most effective current salmon excluder designs and rigging configurations would be refined and tested systematically under conditions that approximate as closely as possible actual commercial fishing practices in that fishery. Testing will be conducted in 2018, 2019, and 2020, with results from each year guiding the device design for each vessel size class to be tested the subsequent year during the period of this EFP. This experiment has the potential to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments on this EFP application must be submitted to NMFS on or before December 12, 2017. In addition, public comments can be presented to The North Pacific Fishery Management Council (Council) that will review and consider the application at its meeting from December 4, 2017, through December 12, 2017, in Anchorage, AK.

ADDRESSES: The Council meeting will be held at the Anchorage Hilton Hotel, 500 W 3rd Ave., Anchorage, AK 99501. The agenda for the Council meeting is available at <http://www.npfmc.org>. In addition to submission of public comments at the Council meeting, you may submit your comments, identified by NOAA-NMFS-2017-0127, by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to www.regulations.gov/#!/docketDetail;D=NOAA-NMFS-2017-0127, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and NMFS will post the comments for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the EFP application and the basis for a categorical exclusion under the National Environmental Policy Act, the final Environmental Impact Statement on Bering Sea Chinook Salmon Bycatch Management (Amendment 91 under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP)), and the Environmental Assessment prepared for Amendment 110 to the FMP are available from the Alaska Region, NMFS website at <http://alaskafisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI) under the FMP, which the Council prepared under the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing the BSAI groundfish fisheries appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at § 600.745(b) and § 679.6 allow the NMFS Regional Administrator to authorize, for limited experimental purposes, fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

Background

Pacific salmon support large commercial, recreational, and subsistence fisheries and continue to be of great cultural importance throughout Alaska. Chinook salmon bycatch, where bycatch means fish caught and released while targeting another species or caught and released while targeting the same species, in the Bering Sea pollock fishery is a concern to those who depend on those salmon resources in Alaska and Canada, and further reduction in salmon bycatch is desired by those who use salmon resources and by

the pollock fishing industry. Annual limits (PSC) are placed on the number of Chinook salmon that may be taken in the BSAI trawl fisheries. Chinook salmon bycatch in the Bering Sea pollock fishery is managed under a system of two PSC limits (described below); allocations among the Bering Sea pollock fishery sectors, inshore cooperatives, and Community Development Quota (CDQ) groups; and other measures designed to minimize bycatch below the higher PSC limit.

The PSC limits became effective in 2011 as part of Amendment 91 to the FMP (75 FR 53026, August 30, 2010) to manage Chinook salmon bycatch in the Bering Sea pollock trawl fishery. Amendment 91 includes two Chinook salmon PSC limits: the 60,000 Chinook salmon PSC limit is available to those who participate in an industry-developed incentive plan agreement (IPA) that provides incentives for each vessel to avoid Chinook salmon bycatch, and a 47,591 Chinook salmon PSC limit applies fleet-wide if industry does not form any IPAs. Currently all vessels in this fishery participate in an IPA. Amendment 110 to the FMP was implemented in 2016 (81 FR 37534, June 10, 2016) to modify the existing Chinook salmon bycatch program, specifically to make it more effective at avoiding Chinook salmon, particularly when Chinook salmon abundance is low. More details on Amendments 91 and 110 may be found in the final Environmental Impact Statement on Bering Sea Chinook Salmon Bycatch Management (Amendment 91), and the Environmental Assessment prepared for Amendment 110 (see **ADDRESSES**).

The majority of pollock fishermen in the Bering Sea use salmon excluder devices on a regular basis as part of the overall effort by the fishery to reduce salmon bycatch under the Chinook PSC limits and bycatch avoidance incentive programs in place in the

fishery. Improvements in Chinook salmon escapement and pollock retention rates for these excluder devices would provide an enhanced opportunity to minimize Chinook salmon bycatch in the Bering Sea pollock fishery to the extent practicable, while maintaining the potential for the full harvest of the pollock total allowable catch (TAC) within specified PSC limits. An EFP is needed to facilitate effective testing of improvements to the excluder devices, because exemptions from certain regulations, as described below, would be required to meet the needs of the experimental design.

Exempted Fishing Permit

On August 15, 2017, Mr. John Gauvin, of Gauvin and Associates, LLC, submitted an application for an EFP for 2018 through 2020 to improve the performance of the salmon excluder device developed under EFP 15-01 from 2015 to 2016, and to validate the performance of this device for pollock trawl gear used in the Bering Sea. The objective of the proposed 2018 EFP is to test refinements to existing salmon excluder devices on vessels from different horsepower and size classes in the Bering Sea pollock fishery to identify the excluder design(s) and specific rigging variations that are most likely to produce the greatest relative improvements to reductions in Chinook salmon bycatch rates without significantly lowering pollock catch rates. Salmon are designated as prohibited species that are incidentally caught in the pollock fishery (§ 679.21(e) and (f)). The most effective current excluder designs and rigging configurations will be refined and tested systematically under conditions that approximate as closely as possible actual commercial fishing practices in the Bering Sea pollock trawl fishery. Testing will be conducted in 2018, 2019, and 2020 during the “A” season for pollock from January 20

through June 10. Results from each year would guide the device design tests in each vessel size class for each subsequent year of this EFP.

The experiment would be conducted on vessels authorized to fish in the Bering Sea pollock trawl fishery. Tests would be performed in each of the following three vessel classes: 1) catcher vessels equal to or less than 1,800 horsepower, 2) catcher vessels greater than 1,800 horsepower, and 3) catcher processors. Experimental methods specify that each device and specific adjustments to be tested be inserted into a pollock trawl net with improved camera and lighting systems to monitor the flow of salmon and pollock within the net and the level of escapement through the excluder portal during normal fishing operations. The effectiveness of the excluder devices will be monitored under a set of systematic vessel operations for each vessel class.

Approximately 600 non-Chinook salmon and 600 Chinook salmon from the “A” season for each year from 2018 through 2020 would be required to support the project. In total, the applicant would be limited to harvesting 1,800 non-Chinook and 1,800 Chinook salmon during the EFP period. The experimental design requires this quantity of salmon to ensure statistically valid results. A total of 2,500 metric tons (mt) of groundfish (primarily pollock) would be taken during each “A” season in 2018 through 2020 over the duration of the EFP. Approximately 97 to 99 percent of the groundfish harvested is expected to be pollock. The experimental design requires this quantity of pollock to ensure a statistically adequate sample size for measuring pollock escapement through the salmon excluder device.

To test the salmon excluder devices, exemptions would be necessary from regulations for salmon bycatch management, observer requirements, closure areas, TACs

for groundfish, and PSC limits for the pollock fishery. Following the practice that the Council and NMFS have approved for past EFP experiments dedicated to salmon bycatch reduction, groundfish and prohibited species taken during the experiment would not be counted against the annual TAC and PSC limits (65 FR 55223, September 13, 2000). Chinook salmon taken during the experiment would not be counted toward the Chinook salmon PSC limits under § 679.21(f). If the EFP salmon were counted toward and exceeded PSC limits, possibly triggering additional management measures, those EFP salmon could create an additional burden on pollock trawl fishermen.

The final 2018 Bering Sea pollock harvest specifications were published on February 27, 2017 (82 FR 11826). The acceptable biological catch (ABC) level is 2,979,000 mt, and the TAC is 1,345,000 mt. Up to 2,500 mt of pollock per year would be allowed to be harvested under the proposed EFP without accruing against the Bering Sea pollock TAC. That amount equates to 0.08 percent of the 2018 Bering Sea pollock ABC, 1.8 percent of the TAC, and 1.5 percent of the difference between the ABC and the TAC. The ABC and TAC levels for 2019 and 2020 would be set under the normal harvest specifications setting process as stipulated at § 679.20. If Bering Sea pollock ABC and TAC levels for those years are similar to 2018, the amount of pollock taken under the EFP would represent similarly low fractions of the ABC and TAC. The EFP fishing will be permitted for this proposed action if the ABC for Bering Sea pollock exceeds the TAC by at least 2,500 mt in 2019 and 2020.

Very little groundfish incidental catch occurs in the pollock fishery, and the harvest of other fish species during the EFP fishing is expected to be 25 mt to 75 mt per season. The majority of these other species harvested under the EFP likely would be

Pacific cod, skates, flatfish, halibut, and jellyfish. The amount of groundfish harvest under the EFP and by the commercial groundfish fisheries is not expected to cause the ABCs for any groundfish species to be exceeded in any year from 2018 through 2020 because other groundfish TACs are set with a sufficient difference between ABC and TAC to accommodate EFP fishing catch of groundfish species other than pollock.

The EFP would include an exemption from selected observer requirements at § 679.50. Participating vessels would use “sea samplers,” who are NMFS-trained observers. They would not be deployed as NMFS observers, however, at the time of the EFP fishing. Space limitations aboard the participating vessels would preclude placing both sea samplers and observers aboard and allowing for concurrent operations. The “sea samplers” would conduct the EFP data collection and perform other observer duties that normally would be required for vessels directed fishing for pollock. Vessels would not be exempt from observer requirements for non-EFP fishing during trips in which both EFP and non-EFP fishing occurs.

The applicant also requested an exemption to fish in areas otherwise closed to fishing with trawl gear under 50 CFR part 679: § 679.22(a)(7)(ii) and the Steller Sea Lion Conservation Area (SCA) (§ 679.22(a)(7)(vii)). Exempted fishing must be conducted outside Steller sea lion protection areas closed to pollock trawl fishing, as described at § 679.22(a)(7), except the sector closure of the Steller Sea Lion Conservation Area (SCA) under § 679.22(a)(7)(vii)(C)(2). The SCA exemption will only apply as long as the combined amount of pollock taken from the SCA does not exceed the 28 percent annual total allowable catch limit (TAC) before April 1, as specified in the Steller sea lion protection measures (§§ 679.20(a)(5)(i)(C) and 679.22(a)(7)(vii)). The experimental

design requires that the tests be conducted in areas of salmon concentration sufficient to ensure a statistically adequate sample size. The SCA includes areas of high salmon concentration and is therefore an ideal location for conducting the experiment and ensuring that the vessel encounters sufficient concentrations of salmon and pollock for meeting the experimental design.

The applicant would be required to submit to NMFS a final report of the EFP results by December 31, 2020. The report would include the salmon excluder device designs and rigging configurations tested in the experiment; how the tests were conducted, including operational variables tested (such as towing speeds, water conditions, target catch rates); performance of the device in terms of salmon bycatch reduction, target catch escapement, handling, and maintenance; and the total catch of each groundfish species and Pacific halibut in metric tons and the total number of each salmon species caught during EFP fishing.

The activities that would be conducted under this EFP are not expected to have a significant impact on the human environment, as detailed in the draft categorical exclusion prepared for this action (see **ADDRESSES**). The EFP would be subject to modifications pending any new relevant information regarding the 2018 through 2020 fishery, including the groundfish harvest specifications.

In accordance with § 679.6 and 600 CFR 745(b)(3)(ii), NMFS has determined that the application warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its December 2017 meeting, which will be held at the Anchorage

Hilton Hotel, 500 W 3rd Ave, Anchorage, AK. The applicant has been invited to appear in support of the application.

Public Comments

Interested persons may comment on the application at the December 2017 Council meeting during public testimony or until December 12, 2017. Information regarding the meeting is available at the Council's website at <http://www.npfmc.org>. Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**). Comments also may be submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 15, 2017.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,

National Marine Fisheries Service.

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